

(1) because it advocates a particular position or viewpoint, whether or not it presents or acknowledges opposing viewpoints;

(2) because it might lend itself to misinterpretation, or to misrepresentation of the United States or other countries, or their people or institutions;

(3) because it is not representative, authentic, or accurate or does not represent the current state of factual knowledge of a subject or aspect of a subject unless the material contains widespread and gross misstatements of fact;

(4) because it does not augment international understanding and goodwill, unless its primary purpose or effect is not to instruct or inform through the development of a subject or an aspect of a subject and its content is not such as to maintain, increase, or diffuse knowledge; or

(5) because in the opinion of the agency the material is propaganda.

Such Federal agency or agencies may not label as propaganda any material that receives a certificate of international educational character under this section and the Agreement.

(Pub. L. 89-634, §1, Oct. 8, 1966, 80 Stat. 879; Pub. L. 102-138, title II, §207, Oct. 28, 1991, 105 Stat. 693.)

AMENDMENTS

1991—Pub. L. 102-138 inserted provisions at end limiting the authority of a Federal agency or agencies to fail to qualify visual or auditory material as being of international educational character and providing that any material that receives a certificate of international educational character not be labeled as propaganda.

EX. ORD. NO. 11311. IMPLEMENTATION OF BEIRUT AGREEMENT RELATING TO AUDIO-VISUAL MATERIALS

Ex. Ord. No. 11311, Oct. 14, 1966, 31 F.R. 13413, provided:

By virtue of the authority vested in me as President of the United States, including the provisions of the Joint Resolution of October 8, 1966, Public Law 89-634 [this chapter and amendment to section 1202 of this title], and section 301 of Title 3 of the United States Code, I hereby order and proclaim that—

1. Pursuant to section 3(b) of the Joint Resolution, the amendments to the Tariff Schedules of the United States made by section 3(a) of the Joint Resolution shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, on and after January 1, 1967.

2. Pursuant to the "Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character", made at Beirut in 1948, the Joint Resolution, and headnote 1 to schedule 8, part 6 of the Tariff Schedules of the United States, the United States Information Agency is hereby designated as the agency to carry out the provisions of the Agreement and related protocol, and to make any determinations and to prescribe any regulations required by headnote 1.

LYNDON B. JOHNSON.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22, Foreign Relations and Intercourse.]

§ 2052. Assistance from other Federal agencies; facilities and personnel

Agencies of the Federal Government are authorized to furnish facilities and personnel for the purpose of assisting the agency or agencies designated by the President in carrying out the provisions of the Agreement.

(Pub. L. 89-634, §2, Oct. 8, 1966, 80 Stat. 879.)

CHAPTER 10—CUSTOMS SERVICE

Sec.	
2071.	Establishment of Service; Commissioner; appointment.
2072.	Officers and employees.
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§ 2071. Establishment of Service; Commissioner; appointment

There shall be in the Department of the Treasury a service to be known as the United States Customs Service, and a Commissioner of Customs. The Commissioner of Customs, who shall be appointed by the President by and with the advice and consent of the Senate, shall—

(1) be at the head of the United States Customs Service;

(2) carry out the duties and powers prescribed by the Secretary of the Treasury; and

(3) report to the Secretary of the Treasury through such other officials as may be designated by the Secretary.

(Mar. 3, 1927, ch. 348, §1, 44 Stat. 1381; May 27, 1930, ch. 342, §8, 46 Stat. 430; Ex. Ord. No. 6639, §1a, Mar. 10, 1934; Pub. L. 101-207, §3(b)(1), Dec. 7, 1989, 103 Stat. 1833.)

CODIFICATION

Provisions that fixed the compensation of the Commissioner have been omitted as the position is under the Executive Schedule, see section 5316 of Title 5, Government Organization and Employees.

Provisions that authorized appointment of the Commissioner "without regard to the civil service laws" were omitted as the appointment is subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order No. 8743, Apr. 23, 1941, issued by the President pursuant to the act of Nov. 26, 1940, ch. 919, title I, §1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5. The position is currently excepted from the civil service rules and regulations by Schedule C, see Part 213 of Title 5 of the Code of Federal Regulations.

Section was formerly classified to section 281 of Title 5 prior to the general revision and codification of Title 5 by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

References to the Bureau of Prohibition and to the Commissioner of Prohibition were omitted in view of

the change of name of the Bureau of Prohibition to the Bureau of Industrial Alcohol by act May 27, 1930, and the abolition of the Bureau of Industrial Alcohol by Ex. Ord. No. 6639.

AMENDMENTS

1989—Pub. L. 101-207 amended second sentence generally. Prior to amendment, second sentence read as follows: “The Commissioner of Customs shall be at the head of the United States Customs Service, and the Commissioner of Customs shall be appointed by the Secretary of the Treasury.”

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

EFFECTIVE DATE

Section 7 of act Mar. 3, 1927, provided that: “This Act shall take effect April 1, 1927.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions vested by law in Attorney General, Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States, were to have been transferred to Secretary of the Treasury by 1973 Reorg. Plan No. 2, §2, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, set out in the Appendix to Title 5. The transfer was negated by section 1(a)(1), (b) of Pub. L. 93-253, Mar. 16, 1974, 88 Stat. 50, which repealed section 2 of 1973 Reorg. Plan No. 2, eff. July 1, 1973.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND OTHER IMPROVED CUSTOMS REPORTING PROCEDURES

Pub. L. 107-210, div. A, title III, §343(a), (c), Aug. 6, 2002, 116 Stat. 981, 985, as amended by Pub. L. 107-295, title I, §108(b), Nov. 25, 2002, 116 Stat. 2089; Pub. L. 109-59, title XI, §11165(a), Aug. 10, 2005, 119 Stat. 1976, provided that:

“(a) CARGO INFORMATION.—

“(1) IN GENERAL.—(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

“(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.

“(2) INFORMATION REQUIRED.—The cargo information required by the regulations promulgated pursuant to

paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1).

“(3) PARAMETERS.—In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

“(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

“(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

“(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

“(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

“(E) The regulations shall take into account the extent to which the technology necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

“(F) The information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security and preventing smuggling, and shall not be used for determining merchandise entry or for any other commercial enforcement purposes. Notwithstanding the preceding sentence, nothing in this section [enacting section 1431a of this title and this note] shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 [19 U.S.C. 1401 et seq.] or regulations promulgated thereunder.

“(G) The regulations shall protect the privacy of business proprietary and any other confidential cargo information provided to the Customs Service pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 [19 U.S.C. 1431] and required to be available for public disclosure pursuant to section 431(c) of such Act.. [sic]

“(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on cargo safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

“(I) Where practicable, the regulations shall avoid imposing requirements that are redundant

with one another or that are redundant with requirements in other provisions of law.

“(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

“(K) With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.

“(L) Not later than 15 days prior to publication of a final rule pursuant to this section, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—

- “(i) the proposed regulations;
- “(ii) an explanation of how particular requirements in the proposed regulations meet the needs of cargo safety and security;
- “(iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties;
- “(iv) an explanation of how the proposed regulations address particular comments received from interested parties; and
- “(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.

“(4) TRANSMISSION OF DATA.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph [Aug. 10, 2005], the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986 [26 U.S.C. 4083]) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.

“(c) SECRETARY.—For purposes of this section [enacting section 1431a of this title and this note], the term ‘Secretary’ means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.”

[Pub. L. 109-59, title XI, §11165(b), Aug. 10, 2005, 119 Stat. 1976, provided that: “The amendment made by this section [amending section 343(a) of Pub. L. 107-210, set out above] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”]

[Pub. L. 107-295, title I, §108(b)(3)(D)(i)(II), Nov. 25, 2002, 116 Stat. 2090, which directed the amendment of section 343(a)(3)(L) of Pub. L. 107-210, set out above, by substituting “publication of a final rule pursuant to this section” for “promulgation of regulations” in the

matter preceding cl. (i), was executed by making the substitution for “promulgation of the regulations” to reflect the probable intent of Congress.]

SECURE SYSTEMS OF TRANSPORTATION

Pub. L. 107-210, div. A, title III, §343A, Aug. 6, 2002, 116 Stat. 985, required the Secretary of the Treasury to establish a joint task force to evaluate, prototype, and certify secure systems of transportation, required the joint task force to establish a program to evaluate and certify secure systems of international intermodal transport, provided minimum standards for the program, and mandated that the Secretary recognize certified systems of intermodal transport and report to Congress within one year of the program’s implementation, prior to repeal by Pub. L. 107-295, title I, §108(c), Nov. 25, 2002, 116 Stat. 2090.

EXTENSION OF PRE-CLEARANCE PROGRAM IN ARUBA

Pub. L. 102-393, title VI, §637, Oct. 6, 1992, 106 Stat. 1779, provided that: “Notwithstanding any other provision of law, the United States Customs Service pilot pre-clearance program authorized to be established in Aruba shall be extended through 1994.”

REPORTS REGARDING EXPANSION OF CUSTOMS PRE-CLEARANCE OPERATIONS AND RECOVERY FOR DAMAGE RESULTING FROM CUSTOMS EXAMINATIONS

Pub. L. 101-382, title I, §124, Aug. 20, 1990, 104 Stat. 643, provided that:

“(a) CUSTOMS PRECLEARANCE.—The Secretary of the Treasury, in consultation with the Secretary of State, shall assess the advisability of expanding the use of preclearance operations by the United States Customs Service at foreign airports. The Secretary of the Treasury shall submit a report on the assessment to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the ‘Committees’) no later than February 1, 1991.

“(b) RECOVERY FOR CUSTOMS DAMAGE.—

“(1) The Secretary of the Treasury, in consultation with the Attorney General, shall determine and evaluate various means by which persons whose merchandise is damaged during customs examinations may seek compensation from, or take other recourse against, the United States Customs Service regarding the damage.

“(2) No later than February 1, 1991, the Secretary of the Treasury shall submit to the Committees a report on the evaluation required under paragraph (1), together with any legislative recommendation that the Secretary considers appropriate.

“(c) MERCHANDISE DAMAGE STATISTICS.—The Commissioner of Customs shall keep accurate statistics on the incidence, nature, and extent of damage to merchandise resulting from customs examinations and shall provide an annual summary of these statistics to the Committees.”

PILOT PRECLEARANCE PROGRAM

Pub. L. 101-382, title II, §233, Aug. 20, 1990, 104 Stat. 663, required the Commissioner of Customs to carry out, during fiscal years 1991 and 1992, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner considered appropriate for testing the extent to which the availability of preclearance operations could assist in the development of tourism and to submit to Congress, as soon as practicable after Sept. 30, 1992, a report regarding those preclearance operations.

INCUMBENT COMMISSIONER ON DECEMBER 6, 1989

Section 3(b)(2) of Pub. L. 101-207 provided that: “The individual who is serving as the Commissioner of Customs on the day before the date of the enactment of this Act [Dec. 7, 1989] may continue to serve in such capacity until a Commissioner of Customs, appointed as

provided in the amendment made by paragraph (1) [amending this section], takes office.”

ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF
UNITED STATES CUSTOMS SERVICE

Pub. L. 100-203, title IX, §9503(c), Dec. 22, 1987, 101 Stat. 1330-381, provided that:

“(1) The Secretary of the Treasury shall establish an advisory committee which shall be known as the ‘Advisory Committee on Commercial Operations of the United States Customs Service’ (hereafter in this subsection referred to as the ‘Advisory Committee’).

“(2)(A) The Advisory Committee shall consist of 20 members appointed by the Secretary of the Treasury.

“(B) In making appointments under subparagraph (A), the Secretary of the Treasury shall ensure that—

“(i) the membership of the Advisory Committee is representative of the individuals and firms affected by the commercial operations of the United States Customs Service; and

“(ii) a majority of the members of the Advisory Committee do not belong to the same political party.

“(3) The Advisory Committee shall—

“(A) provide advice to the Secretary of the Treasury on all matters involving the commercial operations of the United States Customs Service; and

“(B) submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that shall—

“(i) describe the operations of the Advisory Committee during the preceding year, and

“(ii) set forth any recommendations of the Advisory Committee regarding the commercial operations of the United States Customs Service.

“(4) The Assistant Secretary of the Treasury for Enforcement shall preside over meetings of the Advisory Committee.”

Pub. L. 99-272, title XIII, §13033, Apr. 7, 1986, 100 Stat. 311, which provided for the establishment of an advisory committee, whose members were to consist of representatives from the airline, shipping, and other transportation industries, the general public, and others, to advise the Secretary of the Treasury on issues related to the performance of the customs services, was repealed by Pub. L. 100-203, title IX, §9503(d), Dec. 22, 1987, 101 Stat. 1330-382.

§ 2072. Officers and employees

(a) Appointment by Secretary of the Treasury

The Secretary of the Treasury is authorized to appoint, in the service established by section 2071 of this title, one assistant commissioner, three deputy commissioners, one chief clerk, and such attorneys and other officers and employees as he may deem necessary. One of the deputy commissioners of the United States Customs Service shall have charge of investigations. Appointments under this subsection shall be subject to the provisions of the civil service laws, and the salaries shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(b) Absence or disability of Commissioner

The Secretary of the Treasury is authorized to designate an officer of the United States Customs Service to act as Commissioner of Customs, during the absence or disability of the Commissioner of Customs, or in the event that there is no Commissioner of Customs.

(c) Duties of personnel

The personnel of the United States Customs Service shall perform such duties as the Secretary of the Treasury may prescribe.

(d) Office of International Trade

(1) Establishment

There is established within the United States Customs and Border Protection an Office of International Trade that shall be headed by an Assistant Commissioner.

(2) Transfer of assets, functions, and personnel; elimination of offices

(A) Office of Strategic Trade

(i) In general

Not later than 90 days after October 13, 2006, the Commissioner shall transfer the assets, functions, and personnel of the Office of Strategic Trade to the Office of International Trade established pursuant to paragraph (1) and the Office of Strategic Trade shall be abolished.

(ii) Limitation on funds

No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel of the Office of Strategic Trade, to an office other than the office established pursuant to paragraph (1) of this subsection.

(B) Office of regulations and rulings

(i) In general

Not later than 90 days after October 13, 2006, the Commissioner shall transfer the assets, functions, and personnel of the Office of Regulations and Rulings to the Office of International Trade established pursuant to paragraph (1) and the Office of Regulations and Rulings shall be abolished.

(ii) Limitation on funds

No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel of the Office of Regulations and Rulings, to an office other than the office established pursuant to paragraph (1) of this subsection.

(C) Other transfers

The Commissioner is authorized to transfer any other assets, functions, or personnel within the United States Customs and Border Protection to the Office of International Trade established pursuant to paragraph (1). Not less than 45 days prior to each such transfer, the Commissioner shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred, and the reason for such transfer. Such notification shall also include—

(i) an explanation of how trade enforcement functions will be impacted by the reorganization;

(ii) an explanation of how the reorganization meets the requirements of section

212(b) of title 6 that the Department of Homeland Security not diminish the customs revenue and trade facilitation functions formerly performed by the United States Customs Service; and

(iii) any comments or recommendations provided by the Commercial Operations Advisory Committee regarding such reorganization.

(D) Report

Not later than 1 year after any reorganization pursuant to subparagraph (C) takes place, the Commissioner, in consultation with the Commercial Operations Advisory Committee, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.

(E) Limitation on authority

Notwithstanding any other provision of law, the Commissioner shall not transfer any assets, functions, or personnel from United States ports of entry, associated with the enforcement of laws relating to trade in textiles and apparel, to the Office of International Trade established pursuant to paragraph (1), until the following conditions are met:

(i) The Commissioner submits the initial Resource Allocation Model required by section 2075(h) of this title and includes in such Resource Allocation Model a section addressing the allocation of assets, functions, and personnel associated with the enforcement of laws relating to trade in textiles and apparel.

(ii) The Commissioner consults with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding any subsequent transfer of assets, functions, or personnel associated with the enforcement of laws relating to trade in textiles and apparel, not less than 45 days prior to such transfer.

(F) Limitation on appropriations

No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel associated with the enforcement of laws relating to trade in textiles and apparel, before the Commissioner consults with the congressional committees pursuant to subparagraph (E)(ii).

(e) International Trade Committee

(1) Establishment

The Commissioner shall establish an International Trade Committee, to be chaired by the Commissioner, and to include the Deputy Commissioner, the Assistant Commissioner in the Office of Field Operations, the Assistant Commissioner in the Office of Finance, the Assistant Commissioner in the Office of International Affairs, the Assistant Commissioner in the Office of International Trade, the Direc-

tor of the Office of Trade Relations, and any other official determined by the Commissioner to be important to the work of the Committee.

(2) Responsibilities

The International Trade Committee shall—

(A) be responsible for advising the Commissioner with respect to the commercial customs and trade facilitation functions of the United States Customs and Border Protection;

(B) assist the Commissioner in coordinating with the Secretary regarding commercial customs and trade facilitation functions; and

(C) oversee the operation of all programs and systems that are involved in the assessment and collection of duties, bonds, and other charges or penalties associated with the entry of cargo into the United States, or the export of cargo from the United States, including the administration of duty drawback and the collection of antidumping and countervailing duties.

(3) Annual report

Not later than 30 days after the end of each fiscal year, the International Trade Committee shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The report shall—

(A) detail the activities of the International Trade Committee during the preceding fiscal year; and

(B) identify the priorities of the International Trade Committee for the fiscal year in which the report is filed.

(f) Definition

In this section:

(1) Commissioner

The term “Commissioner” means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.

(2) Commercial Operations Advisory Committee

The term “Commercial Operations Advisory Committee” means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(Mar. 3, 1927, ch. 348, §2, 44 Stat. 1381; May 27, 1930, ch. 342, §8, 46 Stat. 430; June 17, 1930, ch. 497, title IV, §650, 46 Stat. 762; Ex. Ord. No. 6639, §1a, Mar. 10, 1934; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Sept. 3, 1954, ch. 1263, §9, 68 Stat. 1228; Pub. L. 109-347, title IV, §402, Oct. 13, 2006, 120 Stat. 1924.)

REFERENCES IN TEXT

Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987, referred to in subsec. (f)(2), is section 9503(c) of Pub. L. 100-203, which is set out as a note under section 2071 of this title.

CODIFICATION

Section was formerly classified to section 281a of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

“Chapter 51 and subchapter III of chapter 53 of title 5” were substituted for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsecs. (d) to (f). Pub. L. 109-347 added subsecs. (d) to (f).

1954—Subsec. (c). Act Sept. 3, 1954, struck out references to the National Prohibition Act.

1949—Subsec. (a). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

CHANGE OF NAME

Bureau of Prohibition and Commissioner of Prohibition redesignated Bureau of Industrial Alcohol and Commissioner of Industrial Alcohol, respectively, by act May 27, 1930.

“United States Customs Service” substituted for “Bureau of Customs” in subsecs. (a) to (c) pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

Bureau of Industrial Alcohol and office of Commissioner of Industrial Alcohol abolished and Commissioner's functions transferred to Commissioner of Internal Revenue by Ex. Ord. No. 6639.

DEPUTY COMMISSIONER OF CUSTOMS

Act June 17, 1930, authorized the appointment of an additional deputy commissioner in the Bureau of Customs in addition to the two deputy commissioners then authorized by law.

§ 2073. Transfer of personnel, etc., to Service

(a) Repealed. Sept. 3, 1954, ch. 1263, §10, 68 Stat. 1229.

(b) The records, property (including office equipment), and personnel of the Division of Customs are transferred to the United States Customs Service.

(Mar. 3, 1927, ch. 348, §3, 44 Stat. 1382; Sept. 3, 1954, ch. 1263, §10, 68 Stat. 1229.)

CODIFICATION

Section was formerly classified to section 281b of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

Subsection (c) of section 3 of act March 3, 1927, abolished the Division of Customs and offices of directors and assistant directors of customs and Special Agency Service of the Customs.

AMENDMENTS

1954—Subsec. (a). Act Sept. 3, 1954, repealed subsec. (a) which related to the delegation of duty to Commissioner of Customs by Secretary of the Treasury.

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2074. Establishment of revolving fund

There is established a revolving fund of \$300,000 which shall be available, without fiscal year limitation exclusively for transfer to the appropriation for collecting the revenue from customs to cover obligations of the United States Customs Service arising from authorized reimbursable services, pending reimbursement from parties in interest: *Provided*, That amounts so transferred shall be returned to the revolving fund not later than six months after the close of the fiscal year in which transferred.

(June 30, 1949, ch. 286, title I, 63 Stat. 360.)

CODIFICATION

Section was formerly classified to section 281g of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89-554, Sept. 6, 1966, §1, 80 Stat. 378.

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2075. Appropriations authorization

(a) In general

(1) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

(2) The authorization of the appropriations for the United States Customs Service for each fiscal year after fiscal year 1987 shall specify—

(A) the amount authorized for the fiscal year for the salaries and expenses of the Service in conducting commercial operations; and

(B) the amount authorized for the fiscal year for the salaries and expenses of the Service for other than commercial operations.

(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b) of this section.

(b) Authorization of appropriations

(1) For noncommercial operations

There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

(A) \$1,365,456,000 for fiscal year 2003.

(B) \$1,399,592,400 for fiscal year 2004.

(2) For commercial operations

(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

(i) \$1,642,602,000 for fiscal year 2003.

(ii) \$1,683,667,050 for fiscal year 2004.

(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 58c(a)(9) and (10) of this title, shall be appropriated from the Customs User Fee Account.

(3) For air interdiction

There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

(A) \$170,829,000 for fiscal year 2003.

(B) \$175,099,725 for fiscal year 2004.

(c) Mandatory 10-day deferment

No part of any sum that is appropriated under the authority of subsection (b) of this section may be used to implement any procedure relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1981.

(d) Overtime pay limitations; waiver

No part of any sum that is appropriated under subsection (b) of this section for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding \$25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service.

(e) Pay comparability authorization

For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for salaries of the United States Customs Service such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970.

(f) Use of savings resulting from administrative consolidations

If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.

(g) Allocation of resources; notice to Congressional committees

(1) The Commissioner of Customs shall ensure that existing levels of commercial services, including inspection and control, classification, and value, shall continue to be provided by Customs personnel assigned to the headquarters office of any Customs district designated by statute before April 7, 1986. The number of such personnel assigned to any such district headquarters shall not be reduced through attrition or otherwise, and such personnel shall be afforded the opportunity to maintain their proficiency through training and workshops to the same extent provided to Customs personnel in any other district. Automation and other modernization equipment shall be made available, as needed on a timely basis, to such headquarters to the same extent as such equipment is made available to any other district headquarters.

(2) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

(A) result in any significant reduction in force of employees other than by means of attrition;

(B) result in any significant reduction in hours of operation or services rendered at any office of the United States Customs Service or any port of entry;

(C) eliminate or relocate any office of the United States Customs Service;

(D) eliminate any port of entry; or

(E) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.

(3) The total number of employees of the United States Customs Service shall be equivalent to at least 17,174 full-time employees.

(h) Resource Allocation Model

(1) Resource Allocation Model

Not later than June 30, 2007, and every 2 years thereafter, the Commissioner shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a Resource Allocation Model to determine the optimal staffing levels required to carry out the commercial operations of United States Customs and Border Protection, including commercial inspection and release of cargo and the revenue functions described in section 212(b)(2) of title 6. The Model shall comply with the requirements of section 212(b)(1) of such title and shall take into account previous staffing models, historic and projected trade volumes, and trends. The Resource Allocation Model shall apply both risk-based and random sampling approaches for determining adequate staffing needs for priority trade functions, including—

- (A) performing revenue functions;
- (B) enforcing antidumping and countervailing duty laws;
- (C) protecting intellectual property rights;
- (D) enforcing provisions of law relating to trade in textiles and apparel;
- (E) conducting agricultural inspections;
- (F) enforcing fines, penalties, and forfeitures; and
- (G) facilitating trade.

(2) Personnel

(A) In general

Not later than September 30, 2007, the Commissioner shall ensure that the requirements of section 212(b) of title 6 are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the implementation of this subparagraph.

(B) Customs and Border Protection Officers

The initial Resource Allocation Model required pursuant to paragraph (1) shall provide for the hiring of a minimum of 200 additional Customs and Border Protection Officers per year for each of the fiscal years 2008 through 2012. The Commissioner shall hire such additional Officers subject to the appropriation of funds to pay for the salaries and expenses of such Officers. In assigning the 1,000 additional Officers authorized by this subparagraph, the Commissioner shall—

- (i) consider the volume of trade and the incidence of nonvoluntarily disclosed cus-

toms and trade law violations in addition to security priorities among United States ports of entry; and

(ii) before October 1, 2010, assign at least 10 additional Officers among each service port and the ports of entry serviced by such service port, except as provided in subparagraph (C).

(C) Assignment

In assigning such Officers pursuant to subparagraph (B), the Commissioner shall consult with the port directors of each service port and the other ports of entry serviced by such service port. The Commissioner shall not assign an Officer to a port of entry pursuant to subparagraph (B)(ii) if the port director of the service port that services such port of entry certifies to the Commissioner that an additional Officer is not needed at such port of entry.

(D) Report

Not later than 60 days after the beginning of each of the fiscal years 2008 through 2012, the Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives, that describes how the additional Officers authorized under subparagraph (B) will be allocated among the ports of entry in the United States in accordance with subparagraph (C).

(3) Authorization of appropriations

In addition to any monies hereafter appropriated to United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the requirements of paragraph (2)(B), to remain available until expended—

- (A) \$36,000,000 for fiscal year 2008;
- (B) \$75,000,000 for fiscal year 2009;
- (C) \$118,000,000 for fiscal year 2010;
- (D) \$165,000,000 for fiscal year 2011; and
- (E) \$217,000,000 for fiscal year 2012.

(4) Report

Not later than 30 days after the end of each fiscal year, the Commissioner shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources directed to commercial and trade facilitation functions within the Office of Field Operations for the preceding fiscal year. Such information shall be reported for each category of personnel within the Office of Field Operations.

(5) Regulations to implement trade agreements

Not later than 30 days after October 13, 2006, the Commissioner shall designate and maintain not less than 5 attorneys within the Office of International Trade established pursuant to section 2072 of this title, with responsibility for the prompt development and promulgation of regulations necessary to implement any trade agreement entered into by the

United States, in addition to any other responsibilities assigned by the Commissioner.

(6) Definition

In this subsection, the term “Commissioner” means the Commissioner responsible for United States Customs and Border Protection in the Department of Homeland Security.

(Pub. L. 95-410, title III, §301, Oct. 3, 1978, 92 Stat. 905; Pub. L. 97-456, §2, Jan. 12, 1983, 96 Stat. 2503; Pub. L. 98-573, title VII, §702, Oct. 30, 1984, 98 Stat. 3043; Pub. L. 99-272, title XIII, §13022(a), Apr. 7, 1986, 100 Stat. 305; Pub. L. 99-509, title VIII, §8102, Oct. 21, 1986, 100 Stat. 1967; Pub. L. 100-203, title IX, §9503(a), (b), Dec. 22, 1987, 101 Stat. 1330-380, 1330-381; Pub. L. 100-690, title VII, §7361(a), (b), Nov. 18, 1988, 102 Stat. 4474; Pub. L. 101-207, §3(a), Dec. 7, 1989, 103 Stat. 1833; Pub. L. 101-382, title I, §102, Aug. 20, 1990, 104 Stat. 634; Pub. L. 107-210, div. A, title III, §311(a), (b)(1), (c), (d), Aug. 6, 2002, 116 Stat. 973; Pub. L. 109-347, title IV, §403, Oct. 13, 2006, 120 Stat. 1926.)

REFERENCES IN TEXT

The Federal Pay Comparability Act of 1970, referred to in subsec. (e), is Pub. L. 91-656, Jan. 8, 1971, 84 Stat. 1946, as amended, which enacted sections 5305 to 5308 and 5947 of Title 5, Government Organization and Employees, amended sections 5108, 5301, and 5942 of Title 5 and section 410 of Title 39, Postal Service, repealed section 5302 of Title 5, and enacted provisions set out as notes under sections 5303 and 5942 of Title 5, section 60a of Title 2, The Congress, and section 410 of Title 39. For complete classification of the Act to the Code see Short Title note set out under section 5301 of Title 5 and Tables.

Hereafter, referred to in subsec. (h)(3), probably means on and after the date of enactment of Pub. L. 109-347 which enacted subsec. (h) and was approved Oct. 13, 2006.

AMENDMENTS

2006—Subsec. (h). Pub. L. 109-347 added subsec. (h).

2002—Subsec. (a)(3). Pub. L. 107-210, §311(d), added par. (3).

Subsec. (b)(1)(A). Pub. L. 107-210, §311(a)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “\$516,217,000 for fiscal year 1991.”

Subsec. (b)(1)(B). Pub. L. 107-210, §311(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “\$542,091,000 for fiscal year 1992.”

Subsec. (b)(2)(A)(i). Pub. L. 107-210, §311(b)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: “\$672,021,000 for fiscal year 1991.”

Subsec. (b)(2)(A)(ii). Pub. L. 107-210, §311(b)(1)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: “\$705,793,000 for fiscal year 1992.”

Subsec. (b)(3)(A). Pub. L. 107-210, §311(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “\$143,047,000 for fiscal year 1991.”

Subsec. (b)(3)(B). Pub. L. 107-210, §311(c)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “\$150,199,000 for fiscal year 1992.”

1990—Subsec. (b). Pub. L. 101-382, amended subsec. (b) generally, in par. (1), substituting provisions authorizing \$516,217,000 and \$542,091,000 for fiscal years 1991 and 1992, respectively, for provisions authorizing \$418,822,000 for fiscal year 1990, of which at least \$26,240,000 was to be used to hire at least 435 additional inspectors and other drug interdiction personnel, in par. (2), designating existing provisions as subpar. (A) and substituting provisions authorizing \$672,021,000 and \$705,793,000 for fiscal years 1991 and 1992, respectively, for provisions authorizing \$656,468,000 for fiscal year 1990, striking out provisions relating to Customs User Fee Account, and adding subpar. (B), and in par. (3), substituting provi-

sions authorizing \$143,047,000 and \$150,199,000 for fiscal years 1991 and 1992, respectively, for provisions authorizing \$128,128,000 for fiscal year 1990.

1989—Subsec. (b)(1). Pub. L. 101-207, §3(a)(1), (2), substituted “1990” for “1989” and “\$418,822,000” for “\$440,504,000”.

Subsec. (b)(2). Pub. L. 101-207, §3(a)(1), (3), substituted “1990” for “1989” and “\$656,468,000” for “\$615,247,000”.

Subsec. (b)(3). Pub. L. 101-207, §3(a)(1), (4), substituted “1990” for “1989” and “\$128,128,000” for “\$142,262,000”.

Subsec. (b)(4). Pub. L. 101-207, §3(a)(5), struck out par. (4) which read as follows: “There are authorized to be appropriated to the Secretary of the Treasury for fiscal year 1989, \$1,600,000 for payment to the Customs Cooperation Council.”

1988—Subsec. (b)(1). Pub. L. 100-690, §7361(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “There are authorized to be appropriated for fiscal year 1988 not to exceed \$348,192,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations, of which \$171,857.06 shall be available only for concluding Contract TC-82-54 that was awarded for the development and testing of an automatic license plate reader.”

Subsec. (b)(2). Pub. L. 100-690, §7361(a)(2)(A), (B), substituted authorization of appropriation of \$615,247,000 for fiscal year 1989 for authorization of appropriation of \$615,000,000 for fiscal year 1988.

Subsec. (b)(3). Pub. L. 100-690, §7361(a)(2)(A), (C), substituted authorization of appropriation of \$142,262,000 for fiscal year 1989 for authorization of appropriation of \$118,309,000 for fiscal year 1988.

Subsec. (b)(4). Pub. L. 100-690, §7361(a)(2)(D), added par. (4).

Subsec. (g)(3). Pub. L. 100-690, §7361(b), added par. (3).

1987—Subsec. (b). Pub. L. 100-203, §9503(a), amended subsec. (b) generally, revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (f). Pub. L. 100-203, §9503(b)(1), struck out heading which is now editorially supplied.

Subsec. (g). Pub. L. 100-203, §9503(b)(2), (3), struck out heading which is now editorially supplied, designated existing provisions as par. (1), and added par. (2).

1986—Subsec. (a). Pub. L. 99-509, §8102(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 99-570, title III, §3141(a), Oct. 27, 1986, 100 Stat. 3207-92, which directed an amendment to subsec. (b) of this section did not become effective pursuant to Pub. L. 99-570, title III, §3141(b), which provided that the amendment made by section 3141(a) would not be effective if H.R. 5300 was enacted with an identical amendment. H.R. 5300 was enacted as Pub. L. 99-509 with an identical amendment in section 8102(2). See below.

Pub. L. 99-509, §8102(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) There are authorized to be appropriated to the Department of the Treasury not to exceed \$772,141,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

“(A) \$27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

“(B) \$53,500,000 is for the operation and maintenance of the air interdiction program of the Service; and

“(C) not to exceed \$14,000,000 is for the implementation of the ‘Operation EXODUS’ program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.].

“(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

“(A) not less than 2,500 merchandise entries (including informal entries) were made; and

“(B) not less than \$1,500,000 in customs revenues were assessed.

“(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further

research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (7) is completed, shall include life cycle costs.

“(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal ‘request for proposal’ process.

“(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

“(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986 not to exceed \$8,000,000 from the Customs Forfeiture Fund for the making of payments under section 1613b of this title, of which not to exceed \$5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction.

“(6) In addition to any other amounts authorized to be appropriated for the Customs Service for fiscal years 1987 and 1988, there are authorized to be appropriated \$27,900,000 for each of such fiscal years to fund the additional personnel referred to in paragraph (1)(A).

“(7) As soon as possible after April 7, 1986, but not later than 12 months after April 7, 1986, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that evaluates the air detection and interdiction capability of the Customs Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study.”

Pub. L. 99-272, § 13022(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated to the Department of the Treasury not to exceed \$686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) \$28,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed \$15,000,000 is for the implementation of the ‘Operation EXODUS’ program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.]”

Subsecs. (f), (g). Pub. L. 99-272, § 13022(a)(2), added subsecs. (f) and (g).

1984—Subsec. (b). Pub. L. 98-573, § 702(1), amended subsec. (b) generally, which prior to amendment read as follows: “There are authorized to be appropriated to the Department of the Treasury not to exceed \$564,224,000 for the salaries and expenses of the United States Customs Service for fiscal year 1983, of which not to exceed \$31,464,000 is for salary and expenses for the enforcement of the alcohol and tobacco revenue laws.”

Subsecs. (d), (e). Pub. L. 98-573, § 702(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

1983—Pub. L. 97-456 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of this title on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM

Pub. L. 107-210, div. A, title III, § 311(b)(2), (3), Aug. 6, 2002, 116 Stat. 973, as amended by Pub. L. 107-296, title IV, § 419(b), Nov. 25, 2002, 116 Stat. 2182, provided that: “[(2) Repealed. Pub. L. 107-296, title IV, § 419(b), Nov. 25, 2002, 116 Stat. 2182.]

“(3) REPORTS.—Not later than 90 days after the date of the enactment of this Act [Aug. 6, 2002], and not later than the end of each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreement Implementation Act [Pub. L. 103-182, see Tables for classification].”

§ 2076. Advances in foreign countries

Section 3324(a) and (b) of title 31 shall not apply to payments made for the United States Customs Service in foreign countries.

(May 6, 1939, ch. 115, title I, § 1, 53 Stat. 660.)

CODIFICATION

“Section 3324(a) and (b) of title 31” substituted in text for “Section 3648 of the Revised Statutes [31 U.S.C. 529]” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 529b of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section is from Treasury Department Appropriation Act, 1940, act May 6, 1939. Similar provisions were contained in the following prior appropriation acts:

Mar. 28, 1938, ch. 55, 52 Stat. 126.

May 14, 1937, ch. 180, title I, 50 Stat. 142.

June 23, 1936, ch. 725, 49 Stat. 1832.

May 14, 1935, ch. 110, 49 Stat. 222.

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the

Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury, with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2077. Advances for enforcement of customs provisions

The Commissioner of Customs, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the Fiscal Service, Treasury Department, in connection with the enforcement of the customs laws. (Mar. 28, 1928, ch. 266, §2, as added Aug. 7, 1939, ch. 566, §1, 53 Stat. 1263; amended 1940 Reorg. Plan No. III, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231.)

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to this title.

CODIFICATION

Section was formerly classified to section 529c of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury, with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

“Fiscal Service” substituted in text for “Division of Disbursement” on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of title 31, Money and Finance.

§ 2078. Certification of reason for advance

A certificate by the Commissioner of Customs stating the amount of an expenditure made from funds advanced and certifying that the confidential nature of the transaction involved renders it inadvisable to specify the details thereof or impracticable to furnish the payee's receipt shall be a sufficient voucher for the sum expressed to have been expended.

(Mar. 28, 1928, ch. 266, §3, as added Aug. 7, 1939, ch. 566, §1, 53 Stat. 1263; amended Pub. L. 91-513, title III, §1102(n)(2), Oct. 27, 1970, 84 Stat. 1293.)

CODIFICATION

Section was formerly classified to section 529d of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1970—Pub. L. 91-513 struck out reference to Commissioner of Narcotics.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after the day immediately preceding the date of enactment of Pub. L. 91-513, which was approved on Oct. 27, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under section 171 of Title 21, Food and Drugs.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury, with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2079. Payments in foreign countries; claims for reimbursement

The provisions of this Act shall not affect payments made for the United States Customs Service in foreign countries, nor the right of any customs officer or employee to claim reimbursement for personal funds expended in connection with the enforcement of the customs laws.

(Mar. 28, 1928, ch. 266, §4, as added Aug. 7, 1939, ch. 566, §1, 53 Stat. 1263; amended Pub. L. 91-513, title III, §1102(n)(3), Oct. 27, 1970, 84 Stat. 1293.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 28, 1928, ch. 266, 45 Stat. 374, as amended, which enacted sections 2077 to 2080 of this title and sections 529a and 529g of former Title 31, Money and Finance. Sections 529a and 529g of former Title 31, were repealed by sections 1101(a)(3) and 1101(a)(6), respectively, of Pub. L. 91-513, title III, Oct. 27, 1970, 84 Stat. 1291, 1292.

The customs laws, referred to in text, are classified generally to this title.

CODIFICATION

Section was formerly classified to section 529e of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1970—Pub. L. 91-513 struck out references to narcotics officers and narcotics laws.

CHANGE OF NAME

“United States Customs Service” substituted in text for “Bureau of Customs” pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after the day immediately preceding the date of enactment of Pub. L. 91-513, which was approved on Oct. 27, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under section 171 of Title 21, Food and Drugs.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to Secretary of the Treasury, with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2080. Advances from available appropriations; rules and regulations

Advances pursuant to this Act, in connection with the enforcement of the customs laws may be made, notwithstanding the provisions of section 3324(a) and (b) of title 31, from the appropriations available for the enforcement of such laws. The Secretary of the Treasury is authorized to prescribe such rules and regulations concerning advances made pursuant to this Act as are necessary or appropriate for the protection of the interests of the United States.

(Mar. 28, 1928, ch. 266, §5, as added Aug. 7, 1939, ch. 566, §1, 53 Stat. 1263; amended Pub. L. 91-513, title III, §1102(n)(4), Oct. 27, 1970, 84 Stat. 1293.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 28, 1928, ch. 266, 45 Stat. 374, as amended, which enacted sections 2077 to 2080 of this title and sections 529a and 529g of former Title 31, Money and Finance.

Sections 529a and 529g of former Title 31 were repealed by sections 1101(a)(3) and 1101(a)(6), respectively, of Pub. L. 91-513, title III, Oct. 27, 1970, 84 Stat. 1291, 1292.

The customs laws, referred to in text, are classified generally to this title.

CODIFICATION

“Section 3324(a) and (b) of title 31” substituted in text for “section 3648 of the Revised Statutes of the United States (U.S.C., title 31, sec. 529)” on authority of

Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 529f of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1970—Pub. L. 91-513 struck out reference to enforcement of narcotics laws.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after the day immediately preceding the date of enactment of Pub. L. 91-513, which was approved on Oct. 27, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under section 171 of Title 21, Food and Drugs.

§ 2081. Undercover investigative operations of Customs Service

(a) Certification required for exemption of undercover operations from certain laws

With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the “Service”) which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

- (i) sections 1341 and 3324 of title 31,
- (ii) sections 11(a) and 22 of title 41,
- (iii) section 255 of title 41,
- (iv) section 8141 of title 40, and
- (v) section 254(a) of title 41, and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 and section 3302 of title 31; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31;

only upon the written certification of the Commissioner of Customs (or, if designated by the

Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) Liquidation of corporations and business entities

If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) of this section with a net value over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) Deposit of proceeds

As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) of this section are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(d) Audits

(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) Definitions

For purposes of subsection (d) of this section—

(1) The term “closed” refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term “employees” means employees, as defined in section 2105 of title 5, of the Service.

(3) The terms “undercover investigative operation” and “undercover operation” mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed \$50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed \$150,000; and

(B) which is exempt from section 3302 or 9102 of title 31;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d) of this section.

(Pub. L. 99-570, title III, §3131, Oct. 27, 1986, 100 Stat. 3207-90; Pub. L. 104-201, div. A, title X, §1074(d)(3), Sept. 23, 1996, 110 Stat. 2661; Pub. L. 104-316, title I, §110(b), Oct. 19, 1996, 110 Stat. 3832.)

CODIFICATION

“Section 8141 of title 40” substituted in subsec. (a)(1)(A)(iv) for “the third undesignated paragraph under the heading ‘Miscellaneous’ of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1996—Subsec. (a)(1)(A)(v). Pub. L. 104-201 struck out “and (c)” after “section 254(a)”.

Subsec. (b). Pub. L. 104-316 struck out “and the Comptroller General” after “the Secretary of the Treasury”.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2082. Customs Service administration

(a) In general

The Commissioner of Customs shall—

(1) develop and implement accounting systems that accurately determine and report the allocations made of Customs Service personnel and other resources among the various operational functions of the Service, such as passenger processing, merchandise processing and drug enforcement; and

(2) develop and implement periodic labor distribution surveys of major workforce activities (such as inspectors, import specialists, fines, penalties, and forfeiture officers, special agents, data transcribers, and Customs aides) to determine the costs of different types of passenger and merchandise processing transactions, such as informal and formal entries, and automated and manual entries.

(b) Survey reports

The Commissioner of Customs shall no later than January 31, 1991, submit to the Committee

on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the first survey implemented under subsection (a)(2) of this section.

(Pub. L. 101-382, title I, §113, Aug. 20, 1990, 104 Stat. 639; Pub. L. 101-508, title X, §10001(d), Nov. 5, 1990, 104 Stat. 1388-386.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508, §10001(d)(1)–(3), inserted “and” after semicolon at end of par. (1), substituted a period for semicolon at end of par. (2), and struck out pars. (3) to (5) which read as follows:

“(3) as soon as practicable after the enactment of appropriations for the Customs Service for each fiscal year, but not later than the 15th day after the beginning of such year, estimate, based on the amounts appropriated, the amount of the fee that would, if imposed on the processing of merchandise, offset the salaries and expenses subject to reimbursement from the fee that will likely be incurred by the Service in conducting commercial operations during that year;

“(4) develop annually a detailed derivation of the commercial services cost base and the methodology used for computing the merchandise processing fee under paragraph (3); and

“(5) report within 45 days of the beginning of any fiscal year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of each fee estimate made under paragraph (3) and each cost base and user fee methodology derivation made under paragraph (4).”

Subsec. (b). Pub. L. 101-508, §10001(d)(4), substituted “Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate” for “Committees referred to in subsection (a)(5) of this section”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective on the date of enactment of the Act providing full-year appropriations for the Customs Service for fiscal year 1992, and applicable to fiscal years beginning on and after Oct. 1, 1991, see section 10001(g)(1) of Pub. L. 101-508, set out as a note under section 58c of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 115(a) of Pub. L. 101-382, set out as an Effective Date of 1990 Amendment note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS

Pub. L. 107-210, div. A, title III, §334, Aug. 6, 2002, 116 Stat. 977, provided that:

“(a) ESTABLISHMENT AND IMPLEMENTATION.—

“(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service’s fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

“(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

“(b) REPORTS.—Beginning on the date of the enactment of this Act [Aug. 6, 2002] and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).”

§ 2083. Annual national trade and customs law violation estimates and enforcement strategy

(a) Violation estimates

Not later than 30 days before the beginning of each fiscal year after fiscal year 1991, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the “Committees”) a report that contains estimates of—

(1) the number and extent of violations of the trade, customs, and illegal drug control laws listed under subsection (b) of this section that will likely occur during the fiscal year; and

(2) the relative incidence of the violations estimated under paragraph (1) among the various ports of entry and customs regions within the customs territory.

(b) Applicable statutory provisions

The Commissioner of Customs, after consultation with the Committees—

(1) shall, within 60 days after August 20, 1990, prepare a list of those provisions of the trade, customs, and illegal drug control laws of the United States for which the United States Customs Service has enforcement responsibility and to which the reports required under subsection (a) of this section will apply; and

(2) may from time-to-time amend the listing developed under paragraph (1).

(c) Enforcement strategy

Within 90 days after submitting a report under subsection (a) of this section for any fiscal year, the Commissioner of Customs shall—

(1) develop a nationally uniform enforcement strategy for dealing during that year with the violations estimated in the report; and

(2) submit to the Committees a report setting forth the details of the strategy.

(d) Compliance program

The Commissioner of Customs shall—

(1) devise and implement a methodology for estimating the level of compliance with the laws administered by the Customs Service; and

(2) include as an additional part of the report required to be submitted under subsection (a) of this section for each of fiscal years 1994, 1995, and 1996, an evaluation of the

extent to which such compliance was obtained during the 12-month period preceding the 60th day before each such fiscal year.

(e) Confidentiality

The contents of any report submitted to the Committees under subsection (a) or (c)(2) of this section are confidential and disclosure of all or part of the contents is restricted to—

- (1) officers and employees of the United States designated by the Commissioner of Customs;
- (2) the chairman of each of the Committees; and
- (3) those members of each of the Committees and staff persons of each of the Committees who are authorized by the chairman thereof to have access to the contents.

(Pub. L. 101-382, title I, § 123, Aug. 20, 1990, 104 Stat. 642; Pub. L. 103-182, title VI, § 691(c), Dec. 8, 1993, 107 Stat. 2224.)

AMENDMENTS

1993—Subsecs. (d), (e). Pub. L. 103-182 added subsec. (d) and redesignated former subsec. (d) as (e).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 11—IMPORTATION OF PRE-COLUMBIAN MONUMENTAL OR ARCHITECTURAL SCULPTURE OR MURALS

Sec.

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| 2091. | List of stone carvings and wall art; promulgation and revision; criteria for classification. |
| 2092. | Export certification requirement. |
| 2093. | Forfeiture of unlawful imports. |
| 2094. | Rules and regulations. |
| 2095. | Definitions. |

§ 2091. List of stone carvings and wall art; promulgation and revision; criteria for classification

The Secretary, after consultation with the Secretary of State, by regulation shall promulgate, and thereafter when appropriate shall revise, a list of stone carvings and wall art which are pre-Columbian monumental or architectural sculpture or murals within the meaning of paragraph (3) of section 2095 of this title. Such stone carvings and wall art may be listed by type or other classification deemed appropriate by the Secretary.

(Pub. L. 92-587, title II, § 201, Oct. 27, 1972, 86 Stat. 1297.)

§ 2092. Export certification requirement

(a) Issuance by country of export

No pre-Columbian monumental or architectural sculpture or mural which is exported (whether or not such exportation is to the United States) from the country of origin after

the effective date of the regulation listing such sculpture or mural pursuant to section 2091 of this title may be imported into the United States unless the government of the country of origin of such sculpture or mural issues a certificate, in a form acceptable to the Secretary, which certifies that such exportation was not in violation of the laws of that country.

(b) Procedure when certificate lacking

If the consignee of any pre-Columbian monumental or architectural sculpture or mural is unable to present to the customs officer concerned at the time of making entry of such sculpture or mural—

- (1) the certificate of the government of the country of origin required under subsection (a) of this section;
- (2) satisfactory evidence that such sculpture or mural was exported from the country of origin on or before the effective date of the regulation listing such sculpture or mural pursuant to section 2091 of this title; or
- (3) satisfactory evidence that such sculpture or mural is not covered by the list promulgated under section 2091 of this title;

the customs officer concerned shall take the sculpture or mural into customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until such certificate or evidence is filed with such officer. If such certificate or evidence is not presented within the 90-day period after the date on which such sculpture or mural is taken into customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the importation of such sculpture or mural into the United States is in violation of this chapter.

(Pub. L. 92-587, title II, § 202, Oct. 27, 1972, 86 Stat. 1297.)

CODIFICATION

References to section 202 of Pub. L. 92-587 in the original were translated as section 2091 of this title in the classification of Pub. L. 92-587 as the probable intent of Congress.

§ 2093. Forfeiture of unlawful imports

(a) Seizure

Any pre-Columbian monumental or architectural sculpture or mural imported into the United States in violation of this chapter shall be seized and subject to forfeiture under the customs laws.

(b) Disposition of articles

Any pre-Columbian monumental or architectural sculpture or mural which is forfeited to the United States shall—

- (1) first be offered for return to the country of origin and shall be returned if that country bears all expenses incurred incident to such return and complies with such other requirements relating to the return as the Secretary shall prescribe; or
- (2) if not returned to the country of origin, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

(Pub. L. 92-587, title II, § 203, Oct. 27, 1972, 86 Stat. 1297.)